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No. A-1026

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In the

Supreme Court of the United States

MAY TERM 1972

FREDERIKA BLANKNER,
Petitioner-Appellant,

vs.

CITY OF CHICAGO, a Municipal Corporation,
Respondent-Appellee.

Appeal From The Supreme Court of Illinois
Docket 41867

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

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CONSTITUTIONAL PROVISIONS

Article 1, § 10 United States Constitution ..2, 11, and passim

Fourteenth Amendment ..... 2, and passim

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MISCELLANEOUS

"Expanding the University of Chicago" by Julian H. Levi in Casebook on Campus Planning and Institutional Development, Ten Institutions, How They Did It, United States Department of Health, Education and Welfare, 1962, pp. 107-127 15-16

Municipal and Industrial Relations Within Boston, The Benefits of Section 112 of the Federal Housing Act of 1961, Julian H. Levi, University of Chicago Press, 1964 16

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Urban Renewal, Illoway, Chicagoland Magazine, July, 1970, pp. 22-26, 38-41 17

CONSTITUTIONAL PROVISIONS INVOLVED

Article 1 Section 10
No State shall . . . pass any Bill of Attainder .....
.....2, 11, and passim

Fourteenth Amendment
. . . nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws .....2, and passim

STATUTORY PROVISIONS INVOLVED

The statute involved is the Illinois Urban Renewal Consolidation Act of 1961, Chapter 67½ Illinois Rev. Stat. 1968 .....3, and passim

Sections 91.103(i), 91.109, 91.110, 91.111, 91.112 are found in Appendix E 19a-21a

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Petitioner respectfully prays a writ of certiorari issue to review the final order of the Supreme Court of Illinois entered herein on affirming the decision of the trial court.

OPINION BELOW

The opinion of the Illinois Supreme Court is reported at 277 N.E.2d 129.

JURISDICTION

The final order of the Illinois Supreme Court was made and entered on November 24, 1971. Rehearing was denied

January 14, 1972. Copy of the decision is appended to this petition in Appendix A at pp. 1a-3a. The jurisdiction of this court is invoked under 28 U.S.C. §1257(3).

QUESTIONS PRESENTED

Under Illinois law, the City of Chicago may condemn property located in an area found by resolution of the Urban Renewal Board to be slum and blighted where such finding has been approved by an ordinance of the City Council of the City of Chicago.* The landowners are not given a hearing or notice in the proceeding before the Urban Renewal Board or in the proceedings before the City Council. In the suit for condemnation the City establishes its *prima facie* case merely by introducing into evidence the resolution of the Board and the ordinance of the City Council. It then becomes incumbent upon the landowner to prove that the area so designated is not in fact slum and blighted. The questions presented for review are:

1. Are the resolution of the Urban Renewal Board and the ordinance of the City Council Bills of Attainder violative of the Equal Protection and Due Process Clauses of the Fourteenth Amendment?

2. Does the presumption in the condemnation proceeding that an area is slum and blighted only because of the resolution and ordinance of the City Council and Urban Renewal Board, violate due process where such task of proving the area is not slum and blighted is onerous and impossible, thereby denying the property owner equality before the law?

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* These areas can be quite large. For example, the present case involves an area of 105.6 acres, 266 structures, and 2592 living units.

STATEMENT OF FACTS

The petitioner, a retired university professor with a very modest pension, owns a small apartment building located in an area adjacent to the University of Chicago, a private institution.

The City of Chicago under authority of the Illinois Urban Renewal Consolidation Act of 1961 created the Department of Urban Renewal. On October 8, 1964, the Board of the Department of Urban Renewal without affording petitioner a hearing and without notice found that the area in which petitioner's property is located was a "slum and blighted area, of not less than two (2) acres, located within the territorial limits of a municipality where buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors, are detrimental to the public safety, health, morals, or welfare". The Chicago City Council by ordinance adopted on November 16, 1964, approved the resolution. (Appendices B and C)

On October 14, 1966, without notice to petitioner and without affording her a hearing, the Chicago City Council adopted an ordinance authorizing the sale to the University of Chicago of 1,055,832 square feet of property in the area adjacent to the university. Said property included petitioner's building.

Under federal law, the Department of Urban Renewal receives sizable federal credits when it sells urban renewal property to a university for improvements which the university constructs on the property.

On April 1, 1968, the City of Chicago filed a suit to condemn petitioner's property on the ground that it was located in an area which was allegedly slum and blighted.

The petitioner filed a timely traverse and motion to dismiss, specifically claiming that the area was not slum and blighted but rather the property was being taken for the private use and private purposes of the University of Chicago in violation of the Fourteenth Amendment. Appropriate excerpts of the traverse are found in Appendix D. Petitioner also requested that the allegations that the area is slum and blighted be stricken as follows:

> "1. That this Honorable Court strike the gratuitous and legal conclusion of petitioner's Item 12 and such portions of Items 13 and 14 as may be herein involved.
>
> 2. That this Honorable Court dismiss the Petition of the City of Chicago herein with costs to the petitioner.
>
> 3. That this Honorable Court take under advisement the assessing against the petitioner of costs and reasonable attorney fees incurred by the defendants in being forced to defend against and as a result of this action." (C. 67)

The City then offered into evidence certified copies of the resolution of the Department of Urban Renewal and the ordinance of the City Council. Petitioner's attorney then stated:

> "Your Honor, I think I will rest at this point, because I do not see the *prima facie* case yet to have been made out by reason of the submission of these exhibits." (C. 182)

Following a hearing on the traverse and motion to dismiss, the Circuit Court of Cook County entered an order denying the traverse and motion to dismiss. (C 98)

A jury trial was then held on the issue of value. The jury returned a verdict awarding $40,750 to the defendant. The trial court entered an order awarding the property to the respondent City upon the deposit of $40,750. (Appendix F)

An appeal was taken directly to the Illinois Supreme Court. The Supreme Court of Illinois in affirming the trial court's decree likewise passed upon the petitioner's claimed constitutional rights, saying:

> "She contends further that the circuit court's ruling that proof of the resolution and ordinance declaring the area blighted and authorizing its acquisition made a *prima facie* case erroneously shifted to her the burden of proof that the area was not slum and blighted, thus denying her due process and equal protection rights guaranteed under the Fourteenth Amendment to the Constitution of the United States.
>
> "The record shows that at the hearing on the traverse and motion to dismiss, after the city rested its case, defendant argued that the city had not made out a *prima facie* case and elected to offer no evidence. The introduction into evidence of the resolution of the Department of Urban Renewal and the ordinance approving it made out a *prima facie* case, (*City of Chicago* v. *Barnes*, 30 Ill.2d 255; *Chicago Land Clearance Comm.* v. *Quinn Home Builders*, 11 Ill.2d 111), and the trial court did not err in denying the traverse and motion.
>
> "Defendant contends further that the court erred in denying her motion to dismiss for the reason that the petition contains conclusions of law and does not plead the ultimate facts requisite to state a cause of action in eminent domain. An examination of the petition shows it to be sufficient and the motion to dismiss was properly denied."

REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT

1. Under Illinois law, an area which is slum and blighted can be condemned for urban renewal purposes and sold to private individuals and institutions for redevelopment. Petitioner does not challenge this practice. Petitioner does challenge the procedure by which the area is determined to be slum and blighted on the grounds that the procedure amounts to a Bill of Attainder and is violative of the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

2. The Illinois procedure is as follows:

(a) The Department of Urban Renewal declares an area to be slum and blighted. No hearing is required or provided whereby landowners can cross examine witnesses or present evidence, nor is a notice given to property owners. In *City of Chicago* v. *Zwick*, 27 Ill. 2d 128, 1963, the Illinois Supreme Court held that an owner did not have the constitutional right to a hearing before the Urban Renewal Board prior to its designation of an area as slum and blighted, because the Board hearings are legislative in character. The Urban Renewal Board thus acts as plaintiff, judge and beneficiary in this proceeding without hearing the landowners.

(b) The resolution is then approved by the City Council. Once again, the property owners are not given notice, nor do the property owners have a right to a hearing before the City Council.

(c) Property owners in the area are given an opportunity to sell their property to the City; should they refuse to do so, a condemnation suit is brought against each owner individually.

(d) In the suit for condemnation, a property owner of the area can deny that the area is slum and blighted. But, the burden of proof is on him or her to show that it is not slum and blighted. The Illinois courts have held that the landowner is thus given an opportunity to prove that the area is not slum and blighted.*

3. In reality this "opportunity" to prove that one's area is not slum and blighted is a legal fiction because:

(a) The enormity and costs of the task of investigating and proving an area is not slum and blighted are beyond the resources of an ordinary property owner.

(b) The term "slum and blighted", as used in the Illinois Statute, in the resolution of the Urban Renewal Board, and in the complaint for condemnation is so vague that even if a property owner had the resources to investigate the entire area in which his or her property is located, the petitioner would not know what would have to be proven or disproven.

4. No property owner can reasonably be expected to prove that his or her neighborhood is not slum and blighted.

The area in question consists of 105.6 acres, made up of 266 structures with a total of 2592 living units. (See Appendix B) Even assuming that the petitioner knew what constitutes slum and blighted, she would be required to in-

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* But note that in the oral argument in the present case before the Illinois Supreme Court, Justice Thomas E. Kluczynski asked the attorney for the City the following question:

"Could a successful traverse ever be filed?"

The attorney for the City responded:

"It would be very hard."

vestigate each of these 266 structures as to their exterior and interior physical condition, their overcrowding, design, ventilation, light and sanitary facilities, land coverage, land use, and layout.

Petitioner, a retired school teacher, cannot be expected to show that these 105.6 acres with 266 structures containing 2592 living units are not in fact slum and blighted. Petitioner does not have the financial resources to undertake this survey which would cost hundreds of thousands of dollars. No private homeowner would.*

Even if she had the financial resources she would not have the legal authority to enter these structures for the purposes of such an investigation.**

5. Even if petitioner had the financial and technical resources to investigate the entire area she would not know what would have to be proven or disproven. The statute, the resolution of the Department of Urban Renewal and the Designation Report of the Urban Renewal Staff, the ordi-

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* For example, the petitioner was impoverished by expenses related to the condemnation, the jury trial and the first steps of the appeal for which she was compelled to go into debt many thousands of dollars.

Accordingly for legal representation to appeal to the Illinois Supreme Court and the Supreme Court of the United States the petitioner has had to resort to the restricted and uncompensated services of the Community Legal Counsel.

** It cannot be emphasized too strongly that the petitioner must show that the entire area of 105.6 acres is not slum and blighted. The condition of her particular building is irrelevant.

It should be noted that property which standing by itself is innocuous and inoffensive may nonetheless be taken for redevelopment pursuant to urban renewal. *City of Chicago* v. *Zwick*, 27 Ill.2nd 128, 188 N.E. 2nd 489 (1963) appl. dism. 373 U.S. 542; *Berman* v. *Parker*, 348 U.S. 26.

nance of the City Council, and the petition to condemn do not allege any facts which could be proven or disproven.

(a) Section 3(i) of the Urban Renewal Consolidation Act, Chapter 67½ §91.103(i), Illinois Revised Statutes (1968) provides:

> "Slum and Blighted Area means any area of not less in the aggregate than two (2) acres located within the territorial limits of a municipality where buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors are detrimental to public safety, health, morals or welfare."

(b) The resolution by the Department of Urban Renewal merely approved a report by the Department staff alleging that certain buildings in the area "meet the requirement of Section 3(i) of the Act for a "Slum and Blighted Area Redevelopment Project" and that the area was "of not less in the aggregate than two (2) acres where buildings or improvements by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout or a combination of these factors, are detrimental to the public safety, health, morals or welfare."

(c) The report made by the urban renewal staff (Appendix B) and attached to the resolution is not useful in discovering the basis on which a determination was made that this area was slum and blighted. For example, Section 3 of the report states that 92.5% of the 266 structures in the area "had one or more of the

characteristics listed" in the definition of slum and blighted area in the Urban Renewal Consolidation Act of 1961.

Without identifying location the report contains lists giving only the number of units which allegedly are: (1) dilapidated, (2) obsolete, (3) guilty of faulty arrangement or design, (4) lacking adequate sanitary facilities, (5) lacking adequate ventilation or light, (6) guilty of excessive land coverage, (7) guilty of deleterious use, (8) guilty of deleterious layout, (9) overcrowded, and (10) without any of the above deficiencies.

The report does not define what, if any, are the objective standards by which these determinations are made, nor does it disclose names of the staff personnel responsible for the preparation of the report or their qualifications.

The report does not state which structures have these conditions. The report does not allege a single housing or building code violation.

(d) The ordinance adopted November 16, 1964 by the Chicago City Council merely stated that:

> "The City Council hereby approves said determination of the Department of Urban Renewal to acquire the [60th-Cottage Grove area . . ."] (Appendix C)

(e) The City of Chicago's petition to condemn alleges that the parcel of real property involved in this litigation lies within an area that has been legally termed "Slum and Blighted Area Redevelopment Project 60th-Cottage Grove." The petition further alleges that the acquisition of the parcel of land involved in this litigation is necessary for slum clearance and eradication.

Defendant's attorney, in an effort to require the City to allege facts which could be proven or disproven, made a motion to dismiss the petition on the ground that the allegations contained therein were conclusions of law. The trial court denied the motion.

5. The resolution of the Urban Renewal Board, and the ordinance of the City Council constitute a Bill of Attainder against owners of property located in the areas in question. The area had been adjudged to be slum and blighted by legislative fiat.

The resolution and ordinance in effect punish the property owner without an effective judicial trial. Article 1 §10 of the United States Constitution prohibits states from enacting Bills of Attainder. The common definition of a Bill of Attainder, first set forth by the United States Supreme Court in *Cummings* v. *Missouri,* is "a legislative act which inflicts punishment without a judicial trial." *Cummings* v. *Missouri,* 4 Wall 277 at 323.

Later the Supreme Court said: "Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial are Bills of Attainder prohibited by the Constitution." *United States* v. *Lovett,* 328 U.S. 303 at 315.

6. Traditional separation of power notions underlie in part the constitutional ban upon legislative attaint. Justice Field once said that, in enacting Bills of Attainder, "the legislative body . . . exercises the powers and office of judge, it pronounces upon the guilt of the party, without any of the forms or safeguards of trial . . . it fixes the degree of punishment in accordance with its own notions of the enormity of the offense." *Cummings* v. *Missouri,* 4 Wall

277 at 323. Chief Justice Warren has referred to the constitutional clause as an implementation of the separation of powers, "a general safeguard against legislative exercise of the judicial function, or more simply, trial by legislature." *United States* v. *Brown,* 381 US 437 at 442. In the present case we have the City Council and Urban Renewal Board adjudicating particular areas to be slum and blighted without providing the property owners with an opportunity to be heard or a notice. Such a practice is violative of the Due Process Clause and of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

7. It has traditionally been held that the effect, and not the form of the legislation is the controlling factor in determining a Bill of Attainder. "If the inhibition can be evaded by the form of the enactment," says the Supreme Court, "its insertion in the fundamental laws was a vain and futile proceeding." *Cummings* v. *Missouri,* 4 Wall 277 at 325. See also, *Fletcher* v. *Peck,* 6 Cranch 87. Under Illinois case law the property owner is given an "opportunity" to show that the area is not slum and blighted in the proceeding to condemn the property. However, under Illinois law this opportunity is illusory.

8. In *United States* v. *Lovett,* 328 US 303, the United States Supreme Court held unconstitutional an act of Congress which prohibited the payment of further salaries to three named federal employees, and, in effect, permanently excluded them from employment by the federal government. The Court ruled that such permanent deprivation was severe "punishment."

Similarly, in the present case we have a legislative body which has selected a particular group and divested them of their property, their homes, their neighborhood and their way of life without a hearing.

9. In *United States* v. *Brown*, 381 US 437, the Supreme Court held unconstitutional as a Bill of Attainder §504 of the Labor-Management Reporting and Disclosure Act of 1959, which makes it a crime for one who is, or has been within the five years preceding, a member of the Communist Party, to serve as a member of the executive board of a labor organization. By designating the Communist Party by name, Congress was legislating with respect to members of a specific group, rather than with respect to general characteristics. The Court observed:

> "The designation of Communists as those persons likely to cause political strikes is not the substitution of a semantically equivalent phrase. . . . In a number of decisions, this Court has pointed out the fallacy of the suggestion that membership in the Communist Party, or any other political organization, can be regarded as an alternative, but equivalent, expression for a list of undesirable characteristics." *United States* v. *Brown*, 381 U.S. 437 at 454.

To the majority of the Court in the *Brown* case there is no doubt that "punishment" can be found both from legislative retribution and prevention. "Historical considerations," says the Court, "by no means compel restriction of the Bill of Attainder ban to instances of retribution." *United States* v. *Brown*, 381 U.S. 437.

Similarly, petitioner does not attack legislation permitting the condemnation of property located in an area which is slum and blighted. Petitioner does attack the legislative designation of a particular area as slum and blighted without a hearing.

10. The United States Supreme Court has struck down state statutes unfairly shifting the burden of proof. In the leading case of *Speiser* v. *Randall*, 357 U.S. 513, the Supreme Court ruled that the state could not take away a tax

exemption without itself bearing the burden of persuasion to show that the taxpayer engaged in criminal speech. California law "which places the burdens of proof and persuasion on the taxpayer is a violation of due process," said the Court in a companion case, *First Unitarian Church* v. *County of Los Angeles*, 357 U.S. 545 at 546.

Legislation declaring that proof of one fact or group of facts shall constitute *prima facie* evidence of an ultimate fact in issue is valid only if there is a rational connection between what is proved and what is to be inferred. A *prima facie* presumption casts upon the person against whom it is applied the duty of going forward with his evidence on the particular point to which the presumption relates. A statute creating a presumption that is arbitrary or that operates to deny a fair opportunity to repel it violates the Due Process Clause of the Fourteenth Amendment. Legislative fiat may not take the place of fact in the judicial determination of issues involving life, liberty or property. *Western & A. R. Co.* v. *Henderson*, 279 U.S. 639; *McFarland* v. *American Sugar Ref. Co.*, 241 U.S. 79; *Manky* v. *Georgia*, 279 U.S. 1; *Tot* v. *United States*, 319 U.S. 463; *United States* v. *Romano*, 382 U.S. 136; *Leary* v. *United States*, 395 U.S. 6.

In the present case, the Illinois urban renewal law as interpreted by the Illinois Supreme Court creates a presumption that an area is in fact slum and blighted only because the Urban Renewal Board adopts a resolution finding that the area is slum and blighted and the City Council approves the resolution. There is no reasonable relationship between the finding of slum and blighted and the fact of the finding. Chapter 67 1/2, §91.109 of the Illinois Revised Statutes (1968) does not require the Board to hold hearings.

The history of urban renewal is a history of chicanery on the part of public officials. For example, the Cleveland local renewal agency showed 70% of the buildings in its Erieview Project as substandard, but an inspection by the U.S. Comptroller General showed only 20% as substandard, *Premature Approval of Large Scale Demolition for Erieview Project I Cleveland*, Comptroller General of the United States, Report to Congress, June, 1963. For a further discussion of an urban renewal history see Abrams, *The City is the Frontier.*

11. The reliability of the finding becomes more suspect when one considers that the Department of Urban Renewal had fourteen million dollars to gain from this project.

Petitioner's property is located in an area adjacent to a private university, the University of Chicago.* The City passed an ordinance to sell petitioner's property to the University two years prior to filing suit to condemn her building.

Title 112 of the Housing Act of 1959 (42 U.S.C. 1463) provides that where a university purchases land through urban renewal from the City and then devotes the land to institutional uses compatible with the urban renewal plan, under the federal matching grant formula, two dollars would be available to the City for every one dollar the university expends.

Julian Levi, of the University of Chicago, explained the process as follows on page 127 of *Casebook on Campus Planning and Institutional Development, Ten Institutions,*

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* The university in its publications has for many years regularly referred to this area as its "South Campus."

How They Did It, published by the United States Department of Health, Education and Welfare (1962), in his chapter on "Expanding the University of Chicago".*

> "On July 18, 1960, Chancellor Kimpton and Chairman Lloyd formally presented the South Campus Proposal to the Chicago Land Clearance Commission. They noted that the University owned approximately 60 percent of the total land area between 60th and 61st Streets, Cottage Grove and Stony Island Avenues; that 26.5 acres were not so owned and were now characterized by widespread decay and deterioration. They noted that the University of Chicago would generate approximately $6,893,000 of Section 112 credits, which would be matched by $21 million of Federal Urban Renewal credits available to the City of Chicago; that of this amount the South Campus Project would cost approximately $6.5 million, thus leaving available to the City $14 million for use in support of urban renewal programs as the Mayor and City Council might determine."

In a second book, Mr. Levi has provided us with an excellent description of the operation of Section 112, *Municipal and Industrial Relations Within Boston, The Benefits of Section 112 of the Federal Housing Act of 1961* by Julian H. Levi, University of Chicago Press, 1964. On page 2, Mr. Levi states:

> "Congress passed Section 112 to achieve partially the solution of these implied problems.
>
> "The financial benefits can be great. For example, college, hospital, university purchases land and buildings for $1 million. It then devotes that land to institutional uses compatible with the urban renewal

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* Mr. Levi is Executive Director of the South East Chicago Commission, a commission organized and founded by the University of Chicago for the purpose of the redevelopment of the off-campus area.

plan or its development plan, which has been approved by the City Council. The city may then treat such institutional expenditures as if it were the city's own expenditures of $1,000,000 for streets, sewers, playgrounds or other facilities.

"Under the federal matching grant formula $2 million of the Federal Grant will be made available to the city's renewal program. Thus, as briefly described above, every dollar of institutional expenditures brings two dollars of Federal Grant."

CONCLUSION

During the last 22 years the City of Chicago has acquired over 1,500 acres of urban land through urban renewal. 19,283 families and 10,019 individuals have been displaced, (figures from Department of Urban Renewal, in part in Illoway, "Urban Renewal", *Chicagoland Magazine*, July, 1970, p. 24).

Urban Renewal can be used as a tool to improve society. There is a real danger that it can be misused as a land grab scheme to favor vested interests.

The courts have the duty to protect property owners and insure that only areas which are in fact slum and blighted are condemned.

Petitioner maintains that it is incumbent upon the State of Illinois to provide a hearing with notice at which all property owners can be represented and given an opportunity to submit evidence. Such a procedure would not unduly delay the urban activities of the City. In the present case, for example, the Department of Urban Renewal adopted a resolution declaring the area to be slum and blighted on October 8, 1964. On November 16, 1964, the

City Council approved the Department's resolution. However, suit to condemn petitioner's property was not filed until April 1, 1968. Certainly, it would not have been an undue burden on the City to require that it prove that the area is in fact slum and blighted in a hearing in which all interested parties could participate and before a trier of fact who does not have a pecuniary interest in the outcome of the proceedings. The City had three and one half years to provide such a hearing. Such a procedure would be in keeping with the constitutional requirement of due process rather than a legislative finding that a particular area is slum and blighted, which does not satisfy the requirement of due process.

Furthermore, the difficulty to any individual, considering the financial burden and physical burden of amassing the tremendous amount of evidence that is necessary in order to rebut the presumption created by the ordinance of the City of Chicago and the entire legislative process involved in the determination of the area in question as slum and blighted presents such an onerous, expensive and difficult task for an individual property owner that the effect thereof is in substance, although maybe not in form, to deny an individual property owner due process of law.

This is especially true considering the fact that the public bodies involved in the condemnation proceeding have unlimited financial ability and personnel to bear the burden of legal services and costs.

Accordingly, this situation places an unfair burden upon the property owner and does not give the property owner equality before the law.

Petitioner's building is still standing, in good condition, and all the apartments are occupied. Thus, relief from the Supreme Court would not be vain.

We submit that the entire proceeding under Illinois State Law is unconstitutional in that it denies the petitioner due process of law, and that therefore this petition for a writ of certiorari should be granted.

We ask this also because a judicial re-examination of current condemnation proceedings that result in defrauding citizens of their constitutional property rights is long overdue.

Attention to this question by the Supreme Court of the United States will also serve the national purpose of helping to restore the needed confidence of our citizenry in the American System which they have come to disbelieve and distrust, feeling that government is no longer concerned for the constitutional rights of individuals.

The foundation of our country through the Boston Tea Party, the Declaration of Independence and the American Revolution is rooted in the need to protest tyranny by governments over the governed.

Both the Constitution and the Bill of Rights were designed by the Founding Fathers specifically to prevent such oppression in our future by safeguarding the rights of the individual versus the State.

So to violate the rights of the individual as they are being violated in the unconstitutional condemnation proceedings under discussion is to violate our country.

As the United States approaches its 200th Anniversary, we as citizens ask our Supreme Court to help reconvince the public including young revolutionaries that our country is still our country and that what we need is not a second Revolution and a second Constitution for our second Cen-

tennial but only enforcement of the Constitution we already have.

Respectfully submitted,

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APPENDIX A

Decision of the Illinois Supreme Court

Docket No. 41867—Agenda 56—May, 1971.

THE CITY OF CHICAGO, Appellee, v. ROBERT L. WALKER *et al.*—(Frederika Blankner, Appellant.)

MR. JUSTICE GOLDENHERSH delivered the opinion of the court:

Defendant, Frederika Blankner, appeals from the judgment of the circuit court of Cook County entered upon a jury verdict in an action in eminent domain in which petitioner, City of Chicago, condemned a parcel of real estate owned by defendant.

The City of Chicago, under authority of the Urban Renewal Consolidation Act of 1961 (Ill.Rev.Stat. 1969, ch. 67½, pars. 91.101 *et seq.*) created the Department of Urban Renewal which on October 8, 1964, determined that a certain area adjacent to the campus of the University of Chicago was a slum and blighted area and should be acquired for redevelopment. The city council, by ordinance adopted on November 16, 1964, approved the Department's determination. The petition in this case was filed on April 1, 1968.

Defendant, the owner of a parcel of land situated in the area involved filed a "traverse and motion to dismiss" which in substance attacked the finding of the Department of Urban Renewal that the area was blighted, and charged that the property was being taken for a private and not a public purpose. In support of this latter contention defendant alleged that there was an agreement between the Department of Urban Renewal and the University of Chicago that upon acquisition of the property by the city it would be conveyed to the university, thus enabling the university to acquire, through exercise of the city's power

of eminent domain, property which the university had no authority to condemn.

The circuit court denied the traverse and the case was set for trial resulting in the verdict and the entry of the judgment from which this appeal is taken.

[1] As grounds for reversal defendant contends that the trial court erred in denying her traverse. She argues that she was denied an opportunity to introduce evidence to prove that the area generally, and her property specifically, were not blighted. She contends further that the circuit court's ruling that proof of the resolution and ordinance declaring the area blighted and authorizing its acquisition made a *prima facie* case erroneously shifted to her the burden of proof that the area was not slum and blighted, thus denying her due process and equal protection rights guaranteed under the fourteenth amendment to the constitution of the United States.

The record shows that at the hearing on the traverse and motion to dismiss, after the city rested its case, defendant argued that the city had not made out a *prima facie* case and elected to offer no evidence. The introduction into evidence of the resolution of the Department of Urban Renewal and the ordinance approving it made out a *prima facie* case. (*City of Chicago* v. *Barnes,* 30 Ill. 2d 255; *Chicago Land Clearance Com.* v. *Quinn Home Builders,* 11 Ill.2d 111) and the trial court did not err in denying the traverse and motion.

Defendant contends further that the court erred in denying her motion to dismiss for the reason that the petition contains conclusions of law and does not plead the ultimate facts requisite to state a cause of action in eminent domain. An examination of the petition shows it to be sufficient and the motion to dismiss was properly denied.

[2] We have considered the arguments of defendant and of *amici curiae* that acquisition of the defendant's property through condemnation for resale to the university denies to this defendant the equal protection of the

law. We have previously held that the taking of land for the redevelopment of slum and blighted areas is a taking for a public purpose, and the fact that a portion will be resold for development for private purposes does not render the condemnation invalid. (*Chicago Land Clearance Com.* v. *White,* 411 Ill. 310.) We do not discuss the remaining contentions of *amici curiae* for the reason that insofar as they are relevant to issues presented by the record they have been determined by our holding in *City of Chicago* v. *Zwick Co.,* 27 Ill.2d 128.

Finally, defendant contends that the circuit court erred in denying her request that the trial to determine just compensation be continued for an indefinite period or in the alternative for 90 days. The record shows that the court continued the case for 14 days and that this was adequate for the protection of defendant's rights.

For the reasons stated herein the judgment of the circuit court of Cook County is affirmed.

Judgment affirmed.

APPENDIX B

Resolution of the Department of Urban Renewal finding area to be slum and blighted and Excerpts from Report of Staff.

RESOLUTION NO. 64-DUR-128

Determination that an area in the vicinity of East 60th Street and South Cottage Grove Avenue should be acquired for Slum and Blighted Area Redevelopment Project 60th-Cottage Grove

WHEREAS, the Urban Renewal Consolidation Act of 1961, Illinois Revised Statutes, 1963, Chapter 67-1/2, Sections 91.101 et seq., hereinafter referred to as the "Act," provides for the acquisition by a Department of Urban Renewal of slum and blighted areas, defined by the Act as an area of not less in the aggregate than two (2) acres located within the territorial limits of a municipality where buildings or improvements, by reason of dilapidation, obsolescence, over-crowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors, are detrimental to the public safety, health, morals or welfare, and

WHEREAS the Staff of the Department of Urban Renewal hereinafter referred to as the "Department," has hereupon presented to the Department a report on a certain area entitled "Report to the Department of Urban Renewal on Designation of Slum and Blighted Area Redevelopment Project 60th-Cottage Grove," dated October 1, 1964, finding that certain land in the vicinity of East 60th Street and Cottage Grove Avenue in the City of Chicago, Illinois meets the requirements of Section 3(i) of the Act for a Slum and Blighted Area Redevelopment Project; and

WHEREAS, the Department desires to evidence its determination that said land should be acquired pursuant to the provisions of the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE DEPARTMENT OF URBAN RENEWAL OF THE CITY OF CHICAGO THAT:

1. The Department having duly considered the aforesaid report of the Staff with respect to that slum and blighted area in the vicinity of East 60th Street and South Cottage Grove Avenue in the City of Chicago, said report is hereby adopted. Said area is more particularly described as follows: (legal description)
all as shown on the map attached hereto and made a part hereof.

2. The Department hereby finds that the area described in paragraph 1 hereof is a slum and blighted area of not less in the aggregate than two (2) acres where buildings or improvements, by reason of dilapidation, obsolescence, over-crowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout, or a combination of these factors, are detrimental to the public safety, health, morals or welfare.

3. It is hereby determined that said slum and blighted area should be acquired pursuant to the provisions of the Act and said area is hereby designated as "Slum and Blighted Area Redevelopment Project 60th-Cottage Grove."

4. A duly certified copy of this Resolution shall be delivered to the City Council of the City of Chicago, Illinois together with a request that said body approve the aforesaid determination of the Department.

5. This Resolution shall bear the date of its adoption and, subject to other provisions of the Act, shall be effective upon its passage.

Adopted: 10/8/64

CITY OF CHICAGO'S EXHIBIT 5A

REPORT TO THE DEPARTMENT OF
URBAN RENEWAL
on the Designation of Slum & Blighted Area

REDEVELOPMENT PROJECT
60th-COTTAGE GROVE

Department of Urban Renewal
City of Chicago

October 1, 1964

* * *

Report Prepared by the Staff of the
Department of Urban Renewal

[The complete 3-page mimeographed text of the Report follows, with summarizing tables 6 and 7:]

I. INTRODUCTION

The area discussed in this statement and hereinafter referred to as the 60th-Cottage Grove area, comprised of 105.6 acres, and located approximately 8 miles south and 1 mile east of Chicago's Central Business District, is bounded generally as follows: On the north, by East 60th Street, on the east by South Stony Island and Drexel Avenues, on the south by 61st and 63rd Streets, and on the west by Langley and Evans Avenues and an alley west of Cottage Grove Avenue. Those boundaries are shown on the exhibit entitled "Existing Land Uses," and in the legal description, attached to this statement.

From the data shown below, it is clear that the 60th-Cottage Grove area is a slum and blighted area and is eligible for redevelopment under the Urban Renewal Consolidation Act of 1961. That Act defines a slum and blighted area as "any area of not less . . . than two (2) acres . . . where buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors, are detrimental to the public safety, health, morals or welfare."

The existing uses of the land and structures in the proposed project, the condition of the structures, and population estimates were obtained on field surveys conducted in May and August of 1964 and were supplemented by data gathered on previous surveys conducted in September and October of 1963. The results of these surveys are summarized below and are shown in greater detail in the attached tables.

II. EXISTING USES OF LAND AND STRUCTURES

Table I, "Land Uses," shows for the area the amounts and percentages of land used for various purposes. The gross area is 105.6 acres, of which 25.9 acres or 24.5 percent are used for public rights-of-way. Of the net area of 79.7 acres, 38.2 acres or 47.9 percent are used for pre-

dominantly residential and related purposes, and 41.5 acres or 52.1 percent are used for predominantly commercial and other non-residential purposes. Twenty-five and five-tenths acres or 32.0 percent are used exclusively for residential purposes, 2.7 acres or 3.4 percent are used for mixed residential and non-residential purposes, and 12.9 acres or 16.2 percent are used for commercial and industrial purposes.

As shown in Table 2, at the time of the survey, 187 or 70.3 percent of the 266 structures in the area were being used or had last been predominantly for residential or related purposes, and 79 or 29.7 percent being used or had last been used predominantly for non-residential purposes. One hundred and seventy-four or 65.4 percent were being used exclusively for residential purposes. Fifteen structures or 5.7 percent were being used for mixed residential and commercial purposes, and 74 structures or 27.8 percent were being used entirely for non-residential purposes.

As shown in Table 3, of the 192 structures with living units, 87 structures contained fewer than 5 units, 60 structures contained from 5 to 20 units, and 45 structures contained more than 20 units.

III. CONDITION OF STRUCTURES AND LIVING UNITS

The survey showed that most of the structures and the living units contained in them had deteriorated to a degree where rehabilitation or conservation would not be economic. As shown in Table 5, 246 or 92.5 percent of the 266 structures in the area had one or more of the characteristics listed in the definition of a slum and blighted area in the Urban Renewal Consolidation Act of 1961. As shown in Table 7, 173 or 92.5 percent of the 187 residential structures had one or more of the characteristics listed in that Act and 73 of the 79 non-residential structures had one or more of these characteristics. Also, as shown in Table 4, 134 or 50.4 percent of the 266 structures in the

area were dilapidated; 141 or 53.0 percent were dilapidated or lacked adequate sanitary facilities. (Table 7) As shown in Table 6, 98 or 52.4 percent of the residential structures were dilapidated, and 36 or 45.6 percent of the non-residential structures were dilapidated.

As shown in Table 4, 1442 or 55.6 percent of the 2592 living units in the area were located in dilapidated structures. As shown in Table 5, 2469 or 95.3 percent of the 2592 living units in the area were located in structures which contained one or more of the deficiencies listed in the definition of a blighted area. As shown in Table 9, 1346 or 60.3 percent of the 2233 dwelling units, and 151 or 42.1 percent of the 359 single room units in the area lacked adequate sanitary facilities or were located in dilapidated structures.

IV. EXTENT OF RESIDENTIAL CONVERSION

As shown in Table 10, 105 or 54.7 percent of the 192 structures containing living units have been converted. These conversions have increased the number of living units originally in the area from 1653 to 2592, or by 56.8 percent. The number of dwelling units has increased by 54.5 percent, from 1445 to 2233, and the number of single room units increased by 72.6 percent, from 208 to 359. The number of living units in the converted structures increased 159.1 percent, from 590 to 1529. The number of dwelling units in these structures increased 133.6 percent, from 590 to 1378.

V. POPULATION CHARACTERISTICS

As shown in Table 13, the estimated number of persons living in the 60th-Cottage Grove area was 6344 persons, of which 5590 were members of two-or-more person families, 472 were single persons living alone, and 282 were single persons living in private or institutional group households.

It is estimated that there were 1644 families in the area, of an average size of 3.4 members. Approximately 1179

or 71.7 percent of these families contained one or more minors. It is further estimated that approximately 90 or 5.5 percent of the families own the units in which they reside.

As shown in Table 14, approximately 43.9 percent of the 2168 households reporting length of residence had lived less than one year in the structure in which they were residing at the time of the survey; 61.4 percent had lived there less than two years; and 79.0 had lived there less than five years. Only 21.0 percent, or approximately one-fifth of the population had lived in the same structure in the area for five or more years.

VI. FEASIBILITY OF REDEVELOPMENT

A. ELIGIBILITY

As shown by the data referred to in the preceding sections of this statement and in the attached tables, the 60th-Cottage Grove area qualifies as a blighted area as defined in the Urban Renewal Consolidation Act of 1961.

B. MARKETABILITY OF THE LAND

The land in the area is to be redeveloped with residential, institutional, and related uses. Precise plans for redevelopment will be prepared following designation of the proposed project as a slum and blighted area redevelopment project by the Department of Urban Renewal and approval of that designation by the City Council.

It is not anticipated that there would be any problems in marketing the land in the area.

C. FINANCIAL

The estimated net cost of redevelopment of the 60th-Cottage Grove area is within local fund limitations, and it is anticipated that federal funds will also be available to reduce local costs.

D. RELOCATION

Relocation of the residents of this area would not be more difficult than in other projects of the Department of Urban Renewal. It is estimated that 1597 families and 639 single persons would have to be relocated.

If the 60th-Cottage Grove area is designated as a project by the Department of Urban Renewal, and if that action is approved by the City Council, redevelopment will proceed at a rate consistent with the Department's policy of not displacing families for whom standard relocation units are not available. Full facilities of the Department of Urban Renewal's relocation service would be available to residents of the area to assist them in relocating into standard living units.

TABLE 6

CONDITION OF STRUCTURES

	RESIDENTIAL AND PREDOMINANTLY RESIDENTIAL STRUCTURES			NON-RESIDENTIAL AND PREDOMINANTLY NON-RESIDENTIAL STRUCTURES	
	Number of Structures	Percent	Information Not Available	Number of Structures	Percent
Total Number of Structures	187	100.0		79	100.0
1. Dilapidated	98	52.4	1	36	45.6
2. Obsolescent	25	13.4	1	28	35.4
3. Faulty Arrangement or Design	111	59.4	1	35	44.3
4. Lacking Adequate Sanitary Facilities	55	29.4	1	5	6.3
5. Lacking Adequate Ventilation or Light	123	65.8	1	24	30.4
6. Excessive Land Coverage	107	57.2		63	79.7
7. Deleterious Use	12	6.4		18	22.8
8. Deleterious Layout	119	63.6		55	69.6
9. Overcrowded	82	43.9		0	0.0
10. Structures without any of the Above Deficiencies	14	7.5		6	7,6

Attachment to Report on Designation
60th - COTTAGE GROVE
October 1, 1964

TABLE 7

CONDITION OF STRUCTURES

	STRUCTURES		
	NUMBER	PERCENT	INFORMATION NOT AVAILABLE
Residential or Predominantly Residential Structures	167	100.0	
1. Dilapidated, obsolescent, of faulty arrangement or design, of deleterious use or layout, excessive land coverage, overcrowded, lacking adequate sanitary facilities, ventilation or light	173	92.5	---
2. Dilapidated, obsolescent, of faulty arrangement or design, of deleterious use or layout, lacking adequate sanitary facilities, ventilation or light	154	82.4	1
3. Dilapidated, obsolescent, of faulty arrangement or design, or lacking adequate sanitary facilities	135	72.2	2
4. Dilapidated, or lacking adequate sanitary facilities	105	56.1	2
5. Structures without any of the above deficiencies	14	7.5	
Non-Residential or Predominantly Non-Residential Structures	79	100.0	
1. Dilapidated, obsolescent, of faulty arrangement or design, deleterious use or layout, excessive land coverage overcrowded, lacking adequate sanitary facilities, ventilation or light	73	92.4	---
2. Dilapidated, obsolescent, of faulty arrangement or design, deleterious use or layout, lacking adequate sanitary facilities, ventilation or light	68	86.1	---
3. Dilapidated, obsolescent, of faulty arrangement or design, or lacking adequate sanitary facilities	55	69.6	---
4. Dilapidated, or lacking adequate sanitary facilities	36	45.6	---
5. Structures without any of the above deficiencies	6	7.6	

achment to Report on Designation
n-Cottage Grove
ober 1, 1964

APPENDIX C

Ordinance of Chicago City Council Approving the Resolution of the Department of Urban Renewal

Journal-City Council-Chicago, November 16, 1964, p. 3328

COMMITTEE ON PLANNING AND HOUSING.

Ordinance

To Approve Determination of Department of Urban Renewal that Slum and Blighted Area Redevelopment Project 60th-Cottage Grove should be Acquired for Redevelopment.

Whereas, The Urban Renewal Consolidation Act of 1961, Illinois Revised Statutes, 1963, Chapter 61½, [sic] Section 91.101 et seq., hereinafter referred to as the "Act", authorizes a Department of Urban Renewal, hereinafter referred to as the "Department", with Federal, State and City grant funds, to provide for the eradication and redevelopment of slum and blighted areas; and

Whereas, The Department has made a study of a tract of land on the south side of the City of Chicago, said area being hereinafter more fully described, and found that the area is a slum and blighted area of not less in the aggregate than two (2) acres where buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout, or any combination of these factors, are detrimental to the public safety, health, morals or welfare; and

Whereas, Redevelopment of said area will be in accordance with a redevelopment plan or plans to be approved by the Department and the City Council of the City of Chicago; and

Whereas, Section 11 of the Act of 1947 provides that whenever a Department determines that a particular slum or blighted area, as defined in said Act, should be acquired

pursuant to the provisions of said Act, such determination shall be evidenced by a resolution adopted by the Department, and a certified copy thereof shall be delivered to the governing body of the municipality in which the area concerned is situated, and that no such determination shall be of any force or effect until it has been approved by the governing body of the municipality in which the area is situated; and

Whereas, The Department has by Resolution No. 64-DUR-128, adopted October 8, 1964, a certified copy of which has been delivered to the City Council of the City of Chicago, determined that said area should be acquired pursuant to the provisions of the Act, and has designated said area as Slum and Blighted Area Redevelopment Project 60th-Cottage Grove; and

Whereas, the Department desires to obtain the approval by the City Council of its determination to acquire the aforesaid area in accordance with the provisions of the Act, and the City Council desires to give such approval, all to the end that the eradication and redevelopment of slum and blighted areas may proceed; now, therefore,

Be It Ordained by the City Council of the City of Chicago:

Section 1. Having been advised that the Department of Urban Renewal found that the area subsequently referred to in Section 2 of this ordinance as Slum and Blighted Area Redevelopment Project 60th-Cottage Grove is a slum and blighted area and has determined that said area should be acquired pursuant to the provisions of the Urban Renewal Consolidation Act of 1961, such determination having been evidenced by a resolution adopted by said Department, a certified copy of which has been delivered to the City Council, and the City Council having been advised by the Department of Urban Renewal that it desires to acquire said area for slum clearance and redevelopment, the City Council hereby approves said determination of the Department of Urban Renewal to acquire the area herein designated as Slum and Blighted Area Redevelopment Project 60th-Cottage Grove for slum clearance and redevelopment in accordance with the provisions of the Act. * * * *

APPENDIX D

Excerpts from Traverse filed by Petitioner-Appellant

6. That the defendants have neither knowledge nor information or belief with respect to Item 6 in the Petition and demand strict proof thereof, but that no matter what strict proof petitioner makes of said Item 6 the action of the Department of Urban Renewal of May 10, 1962, then and at that time, by this resolution 62-DUR-23, initiated those processes whereby and as a result of which the real property of defendants (both parcels being the private property of private persons), was to be taken from the defendants under the guise, appearance, and format of a condemnation proceedings of private property for public use, but in fact, and contrary to the avowed and declared purpose, was to result in the taking of private property from private persons for the private use and private purpose of the University of Chicago, a corporation at law, a private person, whose use of said real estate would be a private use for a private purpose, rather than public use and public purpose, in contravention and violation of the Constitution of this State and of the United States. (R. 61).

7. That the defendants have neither knowledge nor information or belief with respect to Item 7 in the Petition and demand strict proof thereof, the substance of defendant's pleading herein being substantially similar to Item 6 above, the City Council proceeding of June 15, 1962, furthering the Plan therein projected. (R. 61)

8. That the defendants have neither knowledge nor information or belief with respect to Item 8 in the Petition and demand strict proof thereof, that defendants plead with respect hereto as in Item 6 and 7 above, and that in particular, the Department of Urban Renewal Resolution 64-DUR-128, purportedly adopted by the Department on October 8, 1964, could not have been adopted but with

the knowledge, intention and plan that the end result of this resolution would be the taking of private property of the defendant for the private use of a private corporation, as hereinabove described, as per Items 6 and 7. (R. 62)

AND FURTHER, that the alleged Ordinance of the City Council of the City of Chicago entitled "To approve the determination of the Department of Urban Renewal that former blighted area redevelopment" allegedly enacted by the City Council of the City of Chicago on November 16, 1964, was an unconstitutional act violative of the Constitution of the State of Illinois, Article 2, Section 13, and of the Constitution of the United States, Article XIV, Section 1. (R. 62)

10. That the defendants have neither knowledge nor information or belief with respect to Item 10 in the Petition and demand proof thereof, and in particular, the City Council's purported Ordinance of December 7, 1965 was an unconstitutional act violative of the Constitution of the State of Illinois, Article 2, Section 13, and of the Constitution of the United States, Article XIV, Section 1. (R. 63)

11. That the defendants have neither knowledge nor information or belief with respect to the contents of Item 11 and demand strict proof thereof and in particular, that this allegation disguises the fact that the Redevelopment Plan herein referred to takes private property for private purposes, contrary to the Constitution of this State and of these United States. Defendants annexing hereto and incorporating herein a photostatic copy of the Redevelopment Plan of the Department of Urban Renewal of the City of Chicago, as well as the purported Ordinance of the City of Chicago of July 6, 1966, which, in its entirety, purports to give City Council sanction to the plan by incorporating it in the Council's action therein assertedly taken; as well as a photostatic copy of the Ordinance of the City of Chicago dated July 14, 1966, finalizing the acquisition by the University of Chicago of the private

property herein involved for the price therein indicated. (R. 64)

25. That the Plan of the Department of Urban Renewal of the City of Chicago dated May 13, 1965, copy of which has hereinbefore been attached hereto and made part hereof, together with that City Ordinance of July 6, 1966, incorporating said Plan together with the City Ordinance of December 14, 1966, hereinbefore incorporated herein constitute the culmination of an overall plan and purpose to deprive defendants herein of their property in violation of the Constitution of the State of Illinois and of these United States. (R. 66)

APPENDIX E

Statutes Involved

Chapter 67½ §91.103(i) Illinois Revised Statutes.

(i) "Slum and Blighted Area" means any area of not less in the aggregate than two (2) acres located within the territorial limits of a municipality where buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors, are detrimental to the public safety, health, morals or welfare.

§ 91.109 Powers of Department

The Department of Urban Renewal, as agent of the municipality, shall have and exercise the following powers with respect to redevelopment projects:

(a) To acquire slum and blighted areas and other areas which may constitute a redevelopment project as provided in this Act;

(b) To clear any such areas so acquired by demolition or removal of existing buildings and structures thereon; and to install, repair, construct or reconstruct streets, utilities and site improvements essential to the preparation of sites for use in accordance with a redevelopment plan;

(c) To convey real property so acquired for use in accordance with a redevelopment plan;

(d) To accomplish a combination of the foregoing to carry out a redevelopment plan. • • •

§ 91.110 Investigations and hearings

In making investigations herein authorized the Department may hold public hearings. Any hearing may be conducted by the Department or by a committee appointed by it, consisting of one or more members of the Department, or by an employee or agent specially authorized by the Department to conduct it. The Department and any member, employee or agent thereof so designated shall have power to administer oaths, take affidavits, subpoena and require the attendance and testimony of witnesses and the production of books and papers pertaining to such investigation. 1961, Aug. 15, Laws 1961, p. 3308, § 10.

§ 91.111 Determination that area constitutes redevelopment project—Resolution—Approval

Whenever the Department determines that a particular slum or blighted area, or any other area which may constitute a redevelopment project, as herein defined, should be acquired pursuant to the provisions of this Act, such determination together with an accurate description of the area included in such determination and the date on which the determination was made shall be immediately set forth in the records of the Department. Such determinations by the Department may be made from time to time and need not all be made at one time. Each such determination shall be evidenced by a resolution adopted by the Department.

The area of each such determination shall be specifically designated in the resolution as a "Slum and Blighted Area Redevelopment Project" or a "Blighted Vacant Area Redevelopment Project," according to the determination of the Department. A certified copy of such resolution shall be delivered to the governing body of the municipality in which the area is situated. No such determination shall be of any force or effect until such time as it has been approved by the governing body of the municipality in which the area is situated. 1961, Aug. 15, Laws 1961, p. 3308, § 11.

§ 91.112 Acquisition of realty—Condemnation

Upon approval of the determination as provided in the preceding Section, the Department, as agent for the municipality, may proceed to acquire by gift, purchase or condemnation the fee simple title to all real property lying within the area included in the redevelopment project, including easements and reversionary interests in the streets, alleys and other public places lying within such area. If any real property is subject to an easement the Department, in its discretion, may acquire the fee simple title to such real property subject to such easement if it determines that such easement will not interfere with the consummation of a redevelopment plan. If any such real property is already devoted to a public use it may nevertheless be acquired, provided that no property belonging to the United States of America, the State of Illinois or any municipality may be acquired without the consent of such governmental unit and that no property devoted to a public use belonging to a corporation subject to the jurisdiction of the Illinois Commerce Commission may be acquired without the approval of the Illinois Commerce Commission. Each Department, as agent for the municipality, is hereby vested with the power to exercise the right of eminent domain. Condemnation proceedings instituted hereunder shall be brought by and in the name of the municipality and shall be in all respects in accordance with an Act entitled "An Act to provide for the exercise of the right of eminent domain," approved April 10, 1872, as heretofore or hereafter amended.[1] * * * *

[1] Chapter 47, § 1 et seq.

APPENDIX F

State of Illinois)
) SS
County of Cook)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

CITY OF CHICAGO, a municipal corporation, Petitioner vs. FREDERIKA BLANKNER, *impleaded* with ROBERT L. WALKER, et al. Defendants	Condemnation Gen. No. 68 L 4969 Parcel No. 7-16

JUDGMENT ORDER

This matter coming on to be heard upon the Petition of the CITY OF CHICAGO, a municipal corporation, for the ascertainment of just compensation to be paid for the taking by said Petitioner, for the uses and purposes of its Petition mentioned and set forth, of the Property described therein being Parcel 7-16; the said Petition to Condemn having been heretofore filed on April 1, 1968 and the Petitioner CITY OF CHICAGO, a municipal corporation, appearing by RAMOND F. SIMON, Corporation Counsel, and EARL L. NEAL, Assistant Corporation Counsel, its attorneys, and BOODELL, SEARS, SUGRUE AND CROWLEY, appearing for Defendant.

And the Court having jurisdiction of the Petitioner and all of the Respondents to this suit who are interested in the real property legally described herein and the subject matter hereof and all parties interested being before the Court, and this cause having been heretofore duly set for trial for the ascertainment of the just compensa-

tion to be paid for the taking of the real property hereinafter described, which real property is set forth in said Petition to Condemn, as amended; and the Court being fully advised in the premises.

IT WAS ORDERED that a jury come; whereupon came the twelve jurors who, having been duly selected, examined and sworn, to ascertain and report that just compensation for the taking of the real property hereinafter described, and the jury, having heard the evidence adduced therein, the arguments of counsel and instructions from the Court, brought in their verdict in words and figures as follows:

"We the jury, duly selected, impaneled and sworn in the above-entitled case, after hearing the proof offered, report that we have well and truly ascertained the just compensation to be paid to the respective owner or owners of and party or parties interested in the Parcel of real property hereinafter described, together with all improvements thereon and appurtenance thereto and all interests therein and rights incident thereto of every kind and nature, and all private interests in the streets and alleys abutting the said Parcel of real property, to which Petitioner seeks to acquire the fee simple absolute title as stated in its Petition filed in this cause, as follows:

Parcel 7-16

To the owner or owners of and party or parties interested in Parcel 7-16 legally described as follows:

Lot 5 in John Wadsworth's Resubdivision, a subdivision of the South 457 feet of the West half of Block 1 in Commissioner's Partition, a subdivision of that part of the North West quarter of the South East quarter of Section 14, Township 38 North, Range 14, East of the Third Principal Meridian, lying South of the North 627 Feet thereof (except the East 203 feet of the North 236 feet); ALSO The East half of South Woodlawn Avenue West and adjoining, all in Cook County, Illinois.

the sum of Forty Thousand Seven Hundred Fifty and no/100 ($40750.00) Dollars and we the jury, find that the payment of said amount as shown above to the owner or owners of and party or parties interested in the real property above-described, justly compensates said owner or owners of and party or parties interested in the said real property, for the taking by Petitioner of fee simple absolute title in and to the real property aforesaid."

which said verdict is signed by each and all of said jurors aforesaid.

WHEREUPON said Petitioner moves for judgment on said Verdict and the Court being fully advised in the premises;

DOTH FIND, ORDER AND ADJUDGE that the sum of money awarded by the jury in and by their verdict to the owner or owners of and party or parties interested in said real property described in said verdict, is just compensation to the owner or owners thereof and party or parties interested therein for the taking of said real property, and the fee simple absolute title thereto, and all interests therein and rights incident thereto of every kind and nature, and all private interests in the streets and alleys abutting thereon, and judgment is herein entered accordingly.

IT IS, THEREFORE, ORDERED AND ADJUDGED by the Court that the Petitioner, within one hundred twenty (120) days from the entry of this Order pay to the County Treasurer of Cook County, Illinois, for the benefit of the owner or owners of and party or parties interested in said Parcel 7-16 the sum of Forty Thousand Seven Hundred Fifty and no/100 ($40750.00) Dollars as full compensation for the taking of said Parcel 7-16 aforesaid for the uses and purposes set forth in its Petition herein.

IT IS FURTHER ORDERED AND ADJUDGED that upon payment as aforesaid the Petitioner herein shall be

thereby vested with the fee simple absolute title to said parcel of real property paid for by Petitioner as aforesaid; and thereupon said Petitioner, the City of Chicago, shall be authorized and empowered to enter upon and take immediate possession of said real property so paid for.

IT IS FURTHER ORDERED AND ADJUDGED that this Court retains jurisdiction of the above-entitled cause with respect to other parcels of real property sought to be condemned in the above-entitled cause (other than the Parcel of real property described in this Order): and this Court further retains jurisdiction of this cause for the purpose of awarding Petitioner Writ or Writs of Assistance to put Petitioner, City of Chicago, in possession of the parcel of real property with respect to which Petitioner has acquired the fee simple absolute title and right of possession, as aforesaid.

Enter /s/ Edward J. Egan
Judge

Dated at Chicago, Illinois
This 25th day of
February, 1969.